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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
METRO AUTHORITY

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Director

Determination No. 3 – Applicability of One-Time \$500 Application Fee **April 4, 2005**

Section 6(4) of the METRO Act requires that a provider file an application for a permit and pay a one-time \$500 application fee to each municipality whose boundaries include public rights-of-way for which access or use is sought by the provider.

Several municipalities indicate that some providers did not file/obtain safe harbor permits from their municipality by the October 27, 2003, 180-day timeline as required by Section 5 of the METRO Act, which states:

“Sec. 5 (1) A provider using or seeking to use public rights-of-way in a metropolitan area for its telecommunication facilities shall obtain a permit under section 15 from the municipality and pay all fees required under this act. Authorizations or permits previously obtained from a municipality under section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, satisfy the permit requirement of this section.

(2) A provider asserting rights under 1883 PA 129, MCL 484.1 to 484.10, is subject to the permit and fee requirements of this act.

(3) Within 180 days from the effective date of this act, a provider with facilities located in a public right-of-way as of the effective date of this act that has not previously obtained authorization or a permit under section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, shall submit an application for a permit to each municipality in which the provider has facilities located in a public right-of-way. A provider submitting an application under this subsection is not required to pay the administrative fee required under section 6(4).

(4) The authority may, for good cause, allow a provider up to an additional 180 days to submit the application required under subsection (3).”

Application for Permits Timelines

- A. November 1, 2002—Effective date of the METRO Act.
- B. April 30, 2003—To avoid payment of the one-time \$500.00 fee, April 30, 2003 was the 180-day deadline date by which providers had to submit applications for permits to each municipality in which the provider had facilities located in the municipality’s public rights-of-way (Section 5(3) of the METRO Act), unless an additional 180 days was allowed by the METRO Authority (Section 5(4) of the Act).

- C. October 27, 2003—Deadline date of additional 180 days allowed by the METRO Authority for providers to submit their applications to municipalities as required under Section 5(3) of the METRO Act.

Note: The following Providers received from the METRO Authority the 180-day extension to October 27, 2003 to submit applications to municipalities as required under Section 5(3) of the METRO Act:

- SBC Ameritech
- AT&T Communications of Michigan
- TCG Detroit (AT&T)
- Pigeon Telephone Company
- T.D.S. Telecom
- Verizon North Inc.

METRO Authority Determinations

A. Existing Facilities

Telecommunication providers, per Section 6(4) of the METRO Act, are subject to the one-time \$500 application fee to each municipality whose boundaries include public rights-of-way for which access or use is sought by the provider under the following situations:

1. If the telecommunication provider had existing facilities in a municipality's public right-of-way but had not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act (P.A. 179 of 1991) within 180 days (April 30, 2003) of the effective date of the METRO Act; or
2. If the telecommunication provider received an additional 180 days but had not submitted an application by October 27, 2003 for a permit to a municipality in which the provider had existing facilities located in a municipality's public right-of-way.

B. Non-Existing Facilities

Telecommunication providers are subject to the one-time \$500 application fee for public right-of-way access or use sought in municipalities in which the provider proposed to place facilities within public rights-of-way within the boundaries of and controlled by a municipality in which the provider had no facilities in public rights-of-way as of November 1, 2002 (any municipality in which the provider would be a new provider of services).